

September 12, 2005

U.S. Environmental Protection Agency
1200 Pennsylvania Ave. NW, Room B108
Mailcode 6102T
Washington, DC 20460
Attn: E-Docket ID No. OAR-2004-0094

**RE: Proposed Rule; National Emissions Standards for Hazardous Air Pollutants;
General Provisions (70 Fed. Reg. 43992).**

Dear Sir/Madam:

The Synthetic Organic Chemical Manufacturers Association ("SOCMA") appreciates the opportunity to submit these comments on EPA's proposed changes to the general provisions of the National Emissions Standards for Hazardous Air Pollutants published in the Federal Register on July 29, 2005. Numerous SOCMA members are affected by NESHAP standards and are consequently concerned with the requirements governing start-up, shutdown, and malfunction addressed in this rule.

SOCMA is a trade association representing batch and custom chemical manufacturers, a highly innovative, entrepreneurial and customer-driven sector of the chemical industry. More than 2,000 batch processing facilities produce 50,000 of the specialty and custom chemicals manufactured in the U.S. at a value of about \$60 billion annually. SOCMA members are representative of these facilities, which are typically small businesses with fewer than 80 employees and less than \$100 million in annual sales.

SOCMA supports EPA's interpretations, as set forth in the proposed rule, of the Clean Air Act's requirements governing emission control during episodes of startup, shutdown, and malfunction as well as maintenance and public availability of written plans. These interpretations are consistent with the viewpoints that SOCMA expressed in previous comments concerning changes to startup, shutdown, and malfunction plan requirements.

The MACT standards require facilities to develop and implement written start-up, shutdown, and malfunction plans that describe general procedures for operating and maintaining the source during periods of start-up, shutdown, and malfunction. As EPA explicitly clarifies, however, the plan is not an applicable requirement per se; rather, the legal requirement is compliance with the general duty to minimize emissions. Accordingly, EPA appropriately proposes to delete language from the General Provisions requiring the plan to be implemented during periods of start-up, shutdown and malfunction. Without this amendment,



facilities may be subject to enforcement actions even though they have met their general duty clause obligation to minimize emissions during start-up, shutdown, and malfunction periods during events when compliance with the otherwise-applicable emissions standards is not feasible. On the other hand, a mere compliance with its plan does not establish that the source could not use the plan itself as sole proof of compliance with the general duty to minimize emissions.

SOCMA also supports the proposed rule's deletion of requirements that startup, shutdown and malfunction plans be made available to the public beyond the terms specified in Section 114(c) of the Clean Air Act. As SOCMA emphasized in previous comments, start-up, shutdown, and malfunction plans are often lengthy documents with significant cross-referencing to internal company procedures. Because of this, they generally contain material that is deemed to be confidential business information (CBI). At many facilities, they are revised frequently in response to process modifications, operational changes and a facility's ongoing responsibility to use good air pollution control practices. Requiring submission of the original and subsequently revised start-up, shutdown, and malfunction plan would have imposed unnecessary, costly and burdensome recordkeeping and reporting requirements on affected facilities and would have undermined the Government Paperwork Elimination Act (GPEA), which serves to protect against stringent and expensive recordkeeping and reporting absent sufficient justification.

Finally, SOCMA supports the proposed conforming change to the General Provisions to delete recordkeeping requirements for start-up and shut-down events when the facility does not exceed applicable standards. There is no environmental benefit to such recordkeeping when excess emissions do not occur.

Thank you for your consideration of the above comments. If you have any questions regarding SOCMA's position or the issues described herein, please contact me at (202) 721-4143.

Sincerely,

/signed/

Eric Clark